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*Secretary for  
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# State Water Resources Control Board

**Division of Water Rights**  
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**Arnold Schwarzenegger**  
*Governor*

## **RENOTICE OF PETITION FOR PARTIAL ASSIGNMENT OF STATE FILED APPLICATION 5648 AND ACCOMPANYING APPLICATION (APPLICATION 5648X07)**

### **NOTICE OF PETITION FOR CHANGES TO STATE FILED APPLICATION 5648**

### **NOTICE OF APPLICATION 31523 TO APPROPRIATE WATER BY PERMIT**

<b>APPLICATION:</b> 5648X07 (Partial Assignment)	<b>DATE SUBMITTED:</b> April 19, 1996
<b>APPLICATION:</b> 5648 (Change Petition)	<b>DATE SUBMITTED:</b> October 27, 2003
<b>APPLICATION:</b> 31523	<b>DATE FILED:</b> July 1, 2004

**STREAM SYSTEM:** North Fork Stanislaus River  
**COUNTY:** Alpine

Notice is hereby given that Lake Alpine Water Company and the County of Alpine have filed the following actions with the State Water Resources Control Board (SWRCB): (1) A petition for partial assignment of State-filed Application 5648 held by the SWRCB and accompanying application. This has been assigned Application 5648X07. (2) A petition to change the place and purpose of use and add a point of diversion on State-filed Application 5648; and (3) Application 31523 to appropriate water by permit as a backup in the event the Petition for Partial Assignment of State-filed Application 5648X07 and petition for change of State filed Application 5648 are not approved.

Application 5648 was filed by the State of California on July 30, 1927 under the provisions of Water Code section 10500 (State Filing) and later assigned to the SWRCB for administration as provided by Water Code section 10500 et seq. The SWRCB shall hold a public hearing in accordance with section 10500 of the Water Code before any application made and filed pursuant to section 10500 is assigned or released from priority. The hearing shall be for the purpose of determining whether the application should be assigned pursuant to Water Code sections 10504 and 10505 and whether the proposed completed application submitted by the petitioner should be approved in whole or in part.

The SWRCB will determine whether a water right should be issued for the Petition for Assignment of State-filed Application 5648X07 or alternatively, whether Application 31523 should be approved and, if so, whether conditions should be included in any permit issued to protect the environment, the public interest, and other downstream water users. The SWRCB will also determine whether to approve the petition to change State-filed Application 5648 and,

if so, whether conditions should be included in the order to protect the environment, the public interest, and other downstream water users.

This notice provides background information and a description of the proposed project. The notice also describes the procedure and time frame for submittal of protests. The notice may be viewed at the Division of Water Rights' (Division) website at [www.waterrights.ca.gov](http://www.waterrights.ca.gov). Any correspondence directed to the petitions and application should be mailed to:

Lake Alpine Water Company and  
The County of Alpine  
c/o Daniel F. Gallery  
926 J Street, Suite 505  
Sacramento, CA 95814

### **Description of Project for Application 5648X07 (Partial Assignment)**

#### **Background History**

The community of Bear Valley was developed on land patented from the U.S. Forest Service in the early 1960's. The Lake Alpine Water Company (LAWC) supplies water to the community pursuant to Licenses 10840 and 11007.

License 10840 (Application 20312) authorizes 0.075 cubic feet per second (cfs) by direct diversion from January 1 through December 31 for domestic use with an annual diversion limit of 42 acre-feet (af). License 11007 (Application 21485) authorizes 0.05 cfs by direct diversion from January 1 through December 31 and collection to storage of 240 af per annum (afa) in Bear Lake (Reba Dam) from October 1 to June 1 of the succeeding year for municipal and recreational uses. Reba Dam was built in 1965, with a capacity of 360 af. Pursuant to License 11007, the total amount of water to be placed to beneficial use (direct diversion plus withdrawal from storage) shall not exceed 140 afa. The combined total amount to be taken from the source pursuant to Licenses 10840 and 11007 shall not exceed 182 afa.

On April 19, 1996, LAWC filed a petition for partial assignment of State-filed Application 5648 and accompanying application, requesting (1) direct diversion of 0.78 cfs for municipal purposes from October 1 through August 31 of the succeeding year, with an annual limit of 139 af and (2) storage of 256 afa for municipal and recreational purposes, of which 135 afa is for snowmaking purposes, to be collected from October 1 through August 31 of the succeeding year. The maximum amount to be stored in any one year shall not exceed 256 afa. The combined amount taken under direct diversion and storage during any one year shall not exceed 395 afa. In response to the notice, five protests were filed. The protests are unresolved. Any person that previously protested this matter may revise their protest at this time. The protests, however, remain on file until resolved or dismissed.

The SWRCB requested additional information from LAWC supporting its contention that the place of use of State-filed Application 5648 includes or was intended to include the place of use within Alpine County, since State-filed Application does not (1) include municipal and recreational purposes, (2) include the place of use in Alpine County, and (3) include the point of diversion at Bear Lake. In 2003, the applicant submitted an amended petition for partial assignment of State-filed Application 5648X07 and a petition to change State filed Application 5648.

### **Amended Petition for Partial Assignment**

On October 24, 2003 the applicant submitted an amended Petition for Partial Assignment of State-filed Application 5648X07. The amendment revised the 1996 filing as follows: (1) added the County of Alpine as co-applicant, (2) deleted snowmaking as a purpose of use, (3) increased the direct diversion annual limit from 139 afa to 175 afa and reduced the storage amount from 256 afa to 220 afa (the combined direct diversion and storage amount shall not exceed 395 afa), (4) modified the season of diversion for both direct diversion and storage to October 1 through July 31 of the succeeding year, and (5) reduced the place of use. The applicants propose to directly divert from Bear Creek and to collect water in storage at Bear Lake (Reba Dam) for municipal and recreational purposes. Water will be diverted from Bear Creek via 12-inch diameter concrete encased steel pipe, with a length of 400 feet. The pipe capacity is 45 cfs. Municipal use is expected to increase from 3,618 persons in 2004 to 6,156 people by 2014. The place of use is located within Sections 7 and 18, T7N, R18E, MDB&M and Sections 12 and 13, T7N, R17E, MDB&M, as shown on a map filed with the SWRCB.

The project is located on State Highway 4 in and around the community of Bear Valley, California in Alpine County.

### **Description of Project for Application 5648 (Change Petition)**

State-filed Application 5648 does not include the area within County of Alpine as the place of use. The purposes of use for State-filed Application 5648 are irrigation and domestic.

The Petition to Change State-filed Application 5648 requests that: (1) the place of use be changed to include the area being served by the Lake Alpine Water Company in Alpine County, (2) the purposes of use be modified to include municipal and recreational uses, and (3) approval of a point of diversion or rediversion at Bear Lake within NW ¼ of SW ¼ of section 7, T7N, R18E, MDB&M.

### **Description of Project for Application 31523**

The applicants seek a right to collect water to storage behind the existing Reba Dam (constructed in 1965), which is a 70-foot-high dam forming the 360-acre-foot capacity Bear Lake onstream reservoir. The reservoir has a surface area of 15 acres. Water will be used for municipal and recreational purposes of use. Application 31523 is identical to the application accompanying the Partial Assignment for State-filed Application 5648X07, and has been filed as a back-up in the

event the Petition for Partial Assignment is not approved by the SWRCB.

The applicant claims area-of-origin preference for this filing, in order to qualify for an exemption from the Declaration of Fully Appropriated Stream Listing (Declaration). The Declaration states that the Stanislaus River is fully appropriated between April 1 and November 30. The applicant seeks a right to divert from October 1 of each year to July 30 of the succeeding year. Application 31523 was accepted for filing based on the applicant's claim of entitlement to area-of-origin preference.

Water will be appropriated from Bear Creek at the existing Bear Lake in Bear Valley in Alpine County, located in Section 7, T7N, R18E, MDB&M.

### Summary of Applications 5648X07 and 31523

County: Alpine.  
 Source: Bear Creek tributary to Bloods Creek thence North Fork Stanislaus River thence Stanislaus River.  
 Point of  
 Diversion: Located within the NW¼ of SW¼ of Section 7, T7N, R18E, MDB&M.  
 Amount: a. 0.78 cfs of direct diversion, (not to exceed a total of 175 af per year.)  
 b. 220 af per year of storage.  
 The total combined amount taken by direct diversion and storage during any one year will be 395 afa.  
 Season: October 1 of each year to July 31 of the succeeding year.  
 Purposes of  
 Use: Municipal and Recreational.  
 Place of Use: Within the boundaries of the Lake Alpine Water Company's service area as shown on a map filed with the SWRCB.

Use Within	Section	Township	Range	B & M	If Irrigated	
					Number of Acres	Presently Cultivated (Y/N)
All	7	7N	18E	MD		
All	18	7N	18E	MD		
SE¼	12	7N	17E	MD		
E½ within Alpine County	13	7N	17E	MD		

### Environmental Information

According to the California Environmental Quality Act (CEQA) and its guidelines, the County of Alpine is the lead agency and will be responsible for preparation of appropriate environmental documents for the project and for determining whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this

information to the lead agency immediately with a copy to Steven Herrera; SWRCB, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

## **PROTEST SUBMITTAL INFORMATION**

### **Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A

request for information or a request that studies be conducted does not constitute a protest.

### **Procedure for Submitting Protests**

Protests should be submitted on standard protest forms available from the Division's website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/) or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **60<sup>th</sup>** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14<sup>th</sup> Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The SWRCB will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

### **Resolution of Protests**

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "major" project (the proposed diversion is greater than 3 cubic feet per second by direct diversion or greater than 200 acre-feet per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the State Water Resources Control Board following an evidentiary hearing.

### **CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Yoko Mooring by phone at (916) 341-5362 or by electronic mail at [ymooring@waterrights.swrcb.ca.gov](mailto:ymooring@waterrights.swrcb.ca.gov). Information and protest forms are also available at the Division's website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/).

Date of Notice: **December 10, 2004**